

Funding Guidelines – Liquidated Builders Customer Support Payment Scheme

April 2024

Purpose

The Victorian Government is supporting the Customers of Eligible Liquidated Builders who signed a Domestic Building Contract or Agreement for a new residential home and paid an amount to a liquidated builder that failed to secure Domestic Building Insurance.

This scheme covers Customers of Eligible Liquidated Builders (as assessed by the Victorian Government) that have gone into liquidation between 1 July 2022 and 28 February 2024, as well as the customers of Porter Davis Homes Group Pty Ltd who made a tender-stage payment that includes payment for plans and specifications of a value of up to 5 per cent of the New Home Contract Price. The funding supplied under this scheme is a one-off payment to eligible affected Customers.

The Liquidated Builders Customer Support Payment Scheme is an extension of the Porter Davis Homes Customer Support Payment Scheme which has now closed, for customers who entered into a Housing Industry Association Domestic Building Contract with Porter Davis and paid a 5 per cent deposit for the building works for their new home but were left without Domestic Building Insurance.

Capitalised terms used in these guidelines are defined in Appendix 1.

How the support payment works

The scheme is open to Customers of Eligible Liquidated Builders, as assessed by the Victorian Government, who have signed a Domestic Building Contract or Agreement for the construction of a new residential home. These Customers have paid an amount (whether described as a deposit or otherwise), including payment to prepare plans and specifications, to the Eligible Liquidated Builder under the contract or agreement; they do not have Domestic Building Insurance as a consequence of the Eligible Liquidated Builder's failure to obtain the insurance; nor have they had a building permit issued in relation to the Domestic Building Contract or Agreement to allow work to start on their site.

The support payments may cover an amount up to 5 per cent of the New Home Contract Price and will be subject to a cap of \$50,000.

Customers must submit all requested documentation providing evidence of their eligibility and status to initiate the payment process. Once the documentation has been assessed, applicants will be notified of an outcome or may be requested to provide further information.

Those found eligible for payment will then be asked to sign and submit a terms and conditions form agreeing to the terms and conditions for the support payment as well as providing bank account details for payment.

Eligible applicants must, in their terms and conditions form, agree to assign to the State of Victoria their rights under their Domestic Building Contract or Agreement with their nominated Eligible Liquidated Builder before receiving a support payment. This means successful applicants cannot claim for the recovery of the amount paid under their Domestic Building Contract or Agreement through the liquidation process to the extent that the applicant has received a support payment through this scheme to cover their loss. The State of Victoria may seek repayment of any money paid under this scheme from the nominated Eligible Liquidated Builder's liquidator. It is strongly recommended eligible customers should obtain independent legal advice before applying.

This scheme is administered on behalf of the State of Victoria by the Department of Government Services (Department) with support from the Victorian Building Authority (VBA) and the Victorian Managed Insurance Authority (VMIA).

1. Eligibility

- 1.1. To be eligible for the support payment, you must be the Customer of an Eligible Liquidated Builder, as assessed by the Victorian Government, who paid an amount under a Domestic Building Contract or Agreement that was not covered by Domestic Building Insurance. You must have:
- signed an eligible Domestic Building Contract or Agreement (see section 2) for the building works for your new residential home in Victoria that includes payment to prepare plans and specifications with an Eligible Liquidated Builder (as assessed by the Victorian Government) who went into liquidation between 1 July 2022 and 28 February 2024 (note for Porter Davis customers this does not include Englehart Homes). See the [current list of Eligible Liquidated Builders](#) as assessed by the Victorian Government;
 - paid to the Eligible Liquidated Builder an amount up to 5 per cent of the New Home Contract Price under your Domestic Building Contract or Agreement at the time you signed the contract/agreement but had no Domestic Building Insurance in relation to that amount paid; and
 - had no building permit issued in relation to your Domestic Building Contract or Agreement.

You must also agree, that if you are found eligible, you will:

- assign your rights under your contract to the State of Victoria. This means you cannot claim for the recovery of the amount you paid under your Domestic Building Contract or Agreement through the liquidation process to the extent that you have received a support payment through this scheme to cover your loss. The State of Victoria may seek repayment of any money paid under this agreement from the liquidator.
- 1.2. Where there is more than one signatory to the Domestic Building Contract or Agreement, one person must apply on behalf of all signatories. The applicant must attest:

- that they have authorisation and written permission from all signatories to apply on their behalf and to provide their personal information, and, if the application is successful, for the payment to be paid into a bank account where the person applying is the/an account holder;
 - that all signatories agree to assign their rights as an Unsecured Creditor of their nominated Eligible Liquidated Builder (or an associated entity of the Eligible Liquidated Builder) to the State of Victoria if the application is found eligible and they wish to accept the payment; and
 - that they will distribute any payment in accordance with the amount payable to each individual they have attested to representing.
- 1.3. The Department will contact any additional signatories to confirm that they have provided you with written authorisation to apply on their behalf.

2. What is an eligible Domestic Building Contract or Agreement?

- 2.1. For the purposes of this scheme, a contract or agreement will be eligible if it is a signed written agreement between an Eligible Liquidated Builder and Customer to carry out, or to arrange or manage the carrying out of, domestic building work (as defined in the *Domestic Building Contracts Act 1995 (Vic)*) for a new residential home (Domestic Building Contract or Agreement). The contract must include payment to prepare plans and specifications.
- 2.2. The type of Building Contracts and Agreements that may be eligible may have a number of different titles. For example, the contract type may be called a domestic building contract, major domestic building contract, new homes contract, tender agreement, tender-stage contract, preliminary tender agreement, minor works agreement, major works agreement, building works contract, cost plus contract, design and construct contract, construct only contract, trade contract, new home contract.
- 2.3. If you have only signed other, earlier agreements in the building planning process, such as holding or fixing contracts, consultancy agreement, early contractor involvement contract, letter of intent, or memorandum of understanding, you are not eligible to receive the support payment.
- 2.4. A quote or quotation document will not be accepted – the contract must outline a specific agreement between two parties.

3. Ineligible applicants

- 3.1. The following customers are not eligible for a support payment:
- developers (defined as any person or company for whom three or more homes were proposed to be built under a single Domestic Building Contract or Agreement)
 - customers who have signed a Domestic Building Contract or Agreement for a property site located outside of the State of Victoria
 - customers who have been insured by VMIA or another insurer and are therefore eligible to make an insurance claim
 - customers who have signed a contract or agreement for building works of anything other than a new residential home
 - customers who paid an amount up to \$2000 for an activity such as soil testing only
 - customers who have not signed any contract or agreement
 - customers of liquidated builders that have been assessed by the Victorian Government as ineligible for this scheme
 - customers who have transferred (novated) their Domestic Building Contract or Agreement and amount paid under their New Home Contract Price to another builder and they have incurred no financial loss (i.e: they have received a credit towards their New Home Contract Price with their new builder despite the transfer and they are not at a monetary disadvantage after the novation process).

4. Payments

- 4.1. If you are found eligible, you will be offered a support payment for the amount you have paid to the Eligible Liquidated Builder under your Domestic Building Contract or Agreement. The payments may only cover an amount paid of up to 5 per cent of the New Home Contract Price and will be subject to a cap of \$50,000. The payment will be based on the New Home Contract Price of the Domestic Building Contract or Agreement at the time the applicant signed the contract/agreement and paid the amount to the Eligible Liquidated Builder. The maximum of 5 per cent is in line with the legal maximum deposit payment under the *Domestic Building Contracts Act 1995 (Vic)*.

Customers who have paid amounts to their Eligible Liquidated Builder that exceed 5 per cent of the New Home Contract Price or have paid beyond the deposit stage of a build such as progress payments, are not eligible to seek payment for these further payment amounts.

- 4.2. Only one support payment is available for each Domestic Building Contract or Agreement with your nominated Eligible Liquidated Builder.
- 4.3. The payment must be made to a bank account where the person applying is the/an account holder, or to a bank account in the name of the company, or trust/trustee that is the signatory to the Domestic Building Contract or Agreement.

5. Key dates

Applications open	15 April 2024
Applications close	4 pm, Thursday 20 June 2024
Outcome notifications and payments	Applicants will be notified of the outcome of their application within 90 days of submission, should the Victorian Government have assessed the liquidated builder as being eligible at the time of submission. Individual outcome notification is subject to all attachments and information being sufficiently provided.

6. Who can apply?

- 6.1. You must be a person that has signed the Domestic Building Contract or Agreement to apply for the support payment.
- 6.2. Where the eligible Domestic Building Contract or Agreement is between an entity (such as a company or trust) and the nominated Eligible Liquidated Builder, then the person applying must be an authorised representative who can execute contracts and legally bind the applicant.

Depending on the entity type, the following people are authorised representatives and can apply on behalf of their organisation:

- Companies: a director listed at the Australian Business Register (ABR)
 - Trusts: an authorised representative of the trustee, being either the trustee (if an individual) or a director of the trustee (if a company)
 - Partnerships: a partner (a director, if the partnership involves a company).
- 6.3. You must apply separately for each Domestic Building Contract or Agreement that you wish to receive a support payment for.
 - 6.4. You must attest that you have the authorisation and permission of all other signatories to the Domestic Building Contract or Agreement to apply for a support payment and share their personal information.
 - 6.5. The person who applies must provide information from one of the following current proof of identity documents on the application form:
 - Australian passport or New Zealand passport
 - Medicare card
 - Australian driver licence or learner permit
 - Australian visa (International passport).

If proof of identity is unable to be confirmed, the applicant will receive a follow-up email with instructions on how to provide their proof of identity details.

7. How to apply

- 7.1. You must apply online at <https://grants.business.vic.gov.au/PublicForm?id=LBCSPSREV>. Applications must be submitted by the closure date published on the scheme's website. Late applications will not be accepted.
- 7.2. You must provide the following documentation in support of your application:
- A signed Domestic Building Contract or Agreement with your nominated Eligible Liquidated Builder (see [the current list of Eligible Liquidated Builders](#) as assessed by the Victorian Government).
If you are unsure if the documents from your nominated Eligible Liquidated Builder meet the criteria of a signed Domestic Building Contract or Agreement, provide all relevant agreements you signed with your Eligible Liquidated Builder.
 - A final statement or progress statement from your nominated Eligible Liquidated Builder (showing amount paid which may have been in instalments) under your Domestic Building Contract or Agreement, clearly showing that the full amount required to be paid under the Domestic Building Contract or Agreement has been paid.
If you do not have a final statement, official receipts from your Eligible Liquidated builder showing evidence of payment of your deposit may be accepted. Invoices and bank transaction statements will not be accepted.
- 7.3. If your application is found eligible, you will be notified via email, which will have a link to the terms and conditions form where you can agree to the terms and conditions of the payment, as outlined in these guidelines (and in that form), and to give details of the Australian bank account where the payment will be deposited.
- 7.4. As part of the terms and conditions, you must assign to the State of Victoria your rights under your Domestic Building Contract or Agreement with your Eligible Liquidated Builder. This means you cannot claim for the recovery of the amount paid under your Domestic Building Contract or Agreement through the liquidation process to the extent that you have received a support payment through this scheme to cover your loss.
- 7.5. If applicable you must also have sought and received written authorisation and permission to apply from all other signatories to your Domestic Building Contract or Agreement and have their agreement to assign their rights under the Domestic Building Contract or Agreement as an Unsecured Creditor of your nominated Eligible Liquidated Builder to the State of Victoria.
- 7.6. By completing and submitting the terms and conditions form you are making an offer to the State of Victoria (on behalf of all contract signatories) and will be bound by the terms and conditions of the offer if accepted by the State of Victoria, unless varied by agreement, through a return email.

8. Assessment of eligibility

- 8.1. You will be required to confirm and attest you meet the eligibility criteria at the time of application.
- 8.2. Applications and payment will be assessed using the information and evidence provided by you and by verification with other sources as identified in section 8.3.
- 8.3. As part of this process, any information provided by you may be used and disclosed by the Department, other Victorian Government agencies and external parties to determine your eligibility and support the delivery of the support payments. Your information will be verified against information held by the VBA and other insurers, the VMIA and against information from your builder held by the appointed liquidator. Your proof of identify information will be verified with parties external to the Department where required.
- 8.4. The Department will contact any additional signatories to confirm that they have provided you with written authorisation to apply on their behalf.
- 8.5. You may be requested to provide further information or clarification to assist in assessment of your application. The Victorian Government reserves, in its absolute discretion, the right to refuse your application where eligibility criteria are not met, or where you do not or cannot provide sufficient information in the required timeframe to assess whether eligibility criteria have been met, or where a claim cannot be supported.
- 8.6. Where eligibility cannot be determined

If eligibility cannot be verified sufficiently to the Department's satisfaction by evidence verification, either through the information provided by the applicant or the verification processes described in sections 8.2 to 8.4 above, applicants may then be considered on a case-by-case basis by the Department at its discretion.

The applicant will be responsible for providing sufficient evidence to be considered on a case-by-case basis. In such cases, the decision of the Department will be final.

The case-by-case consideration will not extend the scope of customers intended to be covered by this scheme.

9. Application outcome and payment

- 9.1. The Department will endeavour to notify all applicants of the outcome of their completed applications and facilitate payments in accordance with the scheme timelines.

There may be longer processing and assessment times and delays in notification of the outcome for applicants if:

- the applicant does not initially provide sufficient information for the Department to establish that the applicant satisfies the eligibility criteria
- the application is incomplete or contains incorrect information
- further information is required to verify or validate the application as outlined in section 8.3 above
- other signatories to the Domestic Building Contract or Agreement have not been declared and/or have not authorised the applicant to apply for or receive the support payment
- there is difficulty in reaching the applicant or the applicant does not respond in a timely manner.

10. Terms and Conditions of application and payment

- 10.1. By applying to receive a support payment, you consent to the Department collecting, using and disclosing information provided by you, within the Victorian Government and between the Victorian Government and external parties for the purposes of validating your identity and eligibility requirements and processing your application. You also consent to your information being compared to existing data held by the VBA and VMIA or other insurance provider(s), and your Eligible Liquidated Builder's liquidator.
- 10.2. To receive a support payment, you and all other signatories to the Domestic Building Contract or Agreement must agree to assign your rights under the Domestic Building Contract or Agreement up to the value of the support payment you received through this scheme. This means you will assign your rights as an Unsecured Creditor of your Eligible Liquidated Builder to the State of Victoria.
- 10.3. If applicable, the person applying must have written authorisation and permission to apply for and receive the payment from all other signatories to the same Domestic Building Contract or Agreement and that those signatories are aware of the terms and conditions for payment under this scheme. You and any other signatories to the contract must acknowledge that you have a duty of disclosure to accurately share information that could impact the outcome of your application.
- 10.4. By applying, you are declaring that the information provided in the application form and supporting documentation is true, accurate and not misleading about a material fact.

Fraudulent or deceptive claims

- 10.5. If any information in the application or claims for payment is found to be untrue, inaccurate, misleading or fraudulent (as determined by the Department in its discretion), the payment will be repayable on demand and the Victorian Government reserves the right to take further action, including referring the applicant to the relevant law enforcement agency or regulator. Providing untrue, inaccurate, misleading or fraudulent information may result in an offence being committed and serious penalties may apply.

- 10.6. Applications may be subject to audit by the Victorian Government or its representatives for a period of up to three years following receipt of the payment to determine whether the application and information provided was compliant.

11. Privacy statement

- 11.1. Information you provide, which includes personal information, will be collected, used and disclosed by the Department for the purpose of assessing your application for eligibility, to make payments and for the State of Victoria to seek repayment of any money that is paid under this scheme if the application is found to be untrue, inaccurate, misleading or fraudulent (as per section 10.6) or to recover the amount paid by the State under this scheme from an Eligible Liquidated Builder's liquidator.
- 11.2. By applying for a payment, applicants consent to the collection, use and disclosure of information as outlined in these guidelines. The Department as an administrator may contact you to clarify your submitted information, and for scheme review, reporting, monitoring, audit and evaluation purposes.
- 11.3. The Department will complete a range of eligibility assessments that may include data matching to clarify the accuracy and quality of information supplied by you. The data matching may occur on the information and personal information provided in your application, your supporting evidence and your terms and condition form.
- 11.4. In the case of applications suspected to be untrue, inaccurate, misleading or fraudulent, the information you have provided may also be shared with law enforcement agencies and regulators.
- 11.5. If there is an intention to include personal information about a third party, such as an additional signatory to the Domestic Building Contract or Agreement, in the application, the person applying must ensure the third party is aware of and agrees to the contents of this privacy statement and the terms and conditions of the payment.
- 11.6. Any personal information about the applicant applying or a third party will be collected, held, managed, used, disclosed or transferred and stored in accordance with the provisions of the *Privacy and Data Protection Act 2014* (Vic) and other applicable laws.
- 11.7. For enquiries about access to, or correction of, your personal information, please refer to the scheme webpage. Other concerns regarding the privacy of personal information and Department's privacy policy can be emailed to privacy@dgs.vic.gov.au.

12. Other information

- 12.1. The Department reserves the right to amend these guidelines and the terms and conditions at any time as it deems appropriate (subject to appropriate notice being given either by publication on the support payment website or by email to applicants and recipients).

- 12.2. Receiving a support payment may result in financial, taxation, legal or other implications for the recipient. It is strongly recommended applicants seek independent professional advice in regard to these possible impacts. Applicants may also seek advice from the Australian Tax Office on 1800 806 218 if they have questions about their individual situation.
- 12.3. The Victorian Government may ask you to complete a survey on how the payment has helped you. This information will be treated in accordance with the privacy statement detailed above.
- 12.4. If an unsuccessful applicant considers that their application has been incorrectly assessed, they can lodge a complaint. The complaint must be received within 60 days from the date the Department notifies the applicant of the outcome of the application. If a complaint is not received within 60 days, the decision will be final. For more information on complaint lodgement see the support payment website.

13. Contact

For more information and support, please contact us at customer.support@dgs.vic.gov.au

Appendix 1: Definitions

Term	Definition
Application form	The application to provide information and evidence of eligibility for the support payment under this scheme
Customer	A customer of an Eligible Liquidated Builder that went into liquidation between 1 July 2022 to 28 February 2024.
Developer	For the purposes of the support payment any person or company for whom three or more homes were proposed to be built under a single Domestic Building Contract or Agreement
Domestic Building Contract or Agreement	See section 2
Eligible Liquidated Builder	A builder that went into liquidation between 1 July 2022 to 28 February 2024 (See the current list of Eligible Liquidated Builders as assessed by the Victorian Government)
New Home Contract Price	The price for the building works of a new residential home
Terms and Conditions form	The form that sets out the terms and conditions on which the State of Victoria may agree to make a support payment to a successful applicant and includes the bank account details for the State to make the support payment to the applicant
Unsecured Creditor	A creditor who does not hold a security interest in the company's assets
VBA	Victorian Building Authority
VMIA	Victorian Managed Insurance Authority